

## Request for Reconsideration after Final Action

The table below presents the data as entered.

Import Field	Entered
<b>SERIAL NUMBER</b>	77943004
<b>LAW OFFICE ASSIGNED</b>	LAW OFFICE 109
<b>MARK SECTION (no change)</b>	
<b>ARGUMENT(S)</b>	<p>This will respond to the final office action which issued on October 21, 2010. Applicant would like to thank the Examining Attorney for her responsiveness in communications regarding this matter.</p> <p>As a result of the final refusal based on the grounds of likelihood of confusion with US Registration Nos. 3755679, 3755678 and 3670163 and in light of Applicant's longstanding use of the term OVATION in connection with the services specified in the application, Applicant has filed a Petition to Cancel the registrations cited as a bar to registration of Applicant's mark. Proof of the filings of the Petitions to Cancel as filed with the Trademark Trial and Appeal Board are attached. An appeal to the final refusal will be filed with the TTAB as well.</p> <p>Based on the foregoing, Applicant respectfully requests that the application be suspended pending resolution of the cancellation action.</p>
<b>EVIDENCE SECTION</b>	
<b>EVIDENCE FILE NAME(S)</b>	
<b>ORIGINAL PDF FILE</b>	<u>evi_7016551101-200248526 . OvationCancel 001.pdf</u>
<b>CONVERTED PDF FILE(S) (6 pages)</b>	<u>\\TICRS\EXPORT11\IMAGEOUT11\779\430\77943004\xml4\RFR0002.JPG</u> <u>\\TICRS\EXPORT11\IMAGEOUT11\779\430\77943004\xml4\RFR0003.JPG</u> <u>\\TICRS\EXPORT11\IMAGEOUT11\779\430\77943004\xml4\RFR0004.JPG</u> <u>\\TICRS\EXPORT11\IMAGEOUT11\779\430\77943004\xml4\RFR0005.JPG</u> <u>\\TICRS\EXPORT11\IMAGEOUT11\779\430\77943004\xml4\RFR0006.JPG</u> <u>\\TICRS\EXPORT11\IMAGEOUT11\779\430\77943004\xml4\RFR0007.JPG</u>
<b>DESCRIPTION OF EVIDENCE FILE</b>	ESTTA filing receipt for Petition to Cancel US Registration Nos. 3755679, 3755678 and 3670163
<b>SIGNATURE SECTION</b>	
<b>RESPONSE SIGNATURE</b>	/eta/

<b>SIGNATORY'S NAME</b>	Elise Tenen-Aoki
<b>SIGNATORY'S POSITION</b>	Attorney of Record, California bar member
<b>DATE SIGNED</b>	04/19/2011
<b>AUTHORIZED SIGNATORY</b>	YES
<b>CONCURRENT APPEAL NOTICE FILED</b>	NO
<b>FILING INFORMATION SECTION</b>	
<b>SUBMIT DATE</b>	Tue Apr 19 20:09:23 EDT 2011
<b>TEAS STAMP</b>	USPTO/RFR-70.165.51.101-2 0110419200923363680-77943 004-480445a2b116d9b9cb518 d6a9aefb85344-N/A-N/A-201 10419200248526602

PTO Form (Rev 4/2000)  
OMB No. 0651-.... (Exp. 08/31/2004)

## Request for Reconsideration after Final Action To the Commissioner for Trademarks:

Application serial no. **77943004** has been amended as follows:

### ARGUMENT(S)

**In response to the substantive refusal(s), please note the following:**

This will respond to the final office action which issued on October 21, 2010. Applicant would like to thank the Examining Attorney for her responsiveness in communications regarding this matter.

As a result of the final refusal based on the grounds of likelihood of confusion with US Registration Nos. 3755679, 3755678 and 3670163 and in light of Applicant's longstanding use of the term OVATION in connection with the services specified in the application, Applicant has filed a Petition to Cancel the registrations cited as a bar to registration of Applicant's mark. Proof of the filings of the Petitions to Cancel as filed with the Trademark Trial and Appeal Board are attached. An appeal to the final refusal will be filed with the TTAB as well.

Based on the foregoing, Applicant respectfully requests that the application be suspended pending resolution of the cancellation action.

### EVIDENCE

Evidence in the nature of ESTTA filing receipt for Petition to Cancel US Registration Nos. 3755679, 3755678 and 3670163 has been attached.

**Original PDF file:**

evi 7016551101-200248526 . OvationCancel 001.pdf

**Converted PDF file(s) (6 pages)**

Evidence-1

Evidence-2

Evidence-3

Evidence-4

Evidence-5

Evidence-6

**SIGNATURE(S)**

**Request for Reconsideration Signature**

Signature: /eta/ Date: 04/19/2011

Signatory's Name: Elise Tenen-Aoki

Signatory's Position: Attorney of Record, California bar member

The signatory has confirmed that he/she is an attorney who is a member in good standing of the bar of the highest court of a U.S. state, which includes the District of Columbia, Puerto Rico, and other federal territories and possessions; and he/she is currently the applicant's attorney or an associate thereof; and to the best of his/her knowledge, if prior to his/her appointment another U.S. attorney or a Canadian attorney/agent not currently associated with his/her company/firm previously represented the applicant in this matter: (1) the applicant has filed or is concurrently filing a signed revocation of or substitute power of attorney with the USPTO; (2) the USPTO has granted the request of the prior representative to withdraw; (3) the applicant has filed a power of attorney appointing him/her in this matter; or (4) the applicant's appointed U.S. attorney or Canadian attorney/agent has filed a power of attorney appointing him/her as an associate attorney in this matter.

The applicant is not filing a Notice of Appeal in conjunction with this Request for Reconsideration.

Serial Number: 77943004

Internet Transmission Date: Tue Apr 19 20:09:23 EDT 2011

TEAS Stamp: USPTO/RFR-70.165.51.101-2011041920092336

3680-77943004-480445a2b116d9b9cb518d6a9a

efb85344-N/A-N/A-20110419200248526602



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Your submission has been received by the USPTO.  
The content of your submission is listed below.  
You may print a copy of this receipt for your records.

ESTTA Tracking number: **ESTTA404574**Filing date: **04/19/2011**

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE  
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD

**Petition for Cancellation**

Notice is hereby given that the following party requests to cancel indicated registration.

**Petitioner Information**

<b>Name</b>	Ovation LLC		
<b>Entity</b>	Limited Liability Company	<b>Citizenship</b>	Delaware
<b>Address</b>	2800 28th Street, Suite 240 SANTA MONICA, CA 90405 UNITED STATES		

<b>Attorney information</b>	Elise Tenen-Aoki Greenberg Traurig LLP 2450 COLORADO AVENUE, SUITE 400E SANTA MONICA, CA 90405 UNITED STATES laipmail@gtlaw.com Phone:949-732-6587
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**Registrations Subject to Cancellation**

<b>Registration No</b>	3755679	<b>Registration date</b>	03/02/2010
	OVATION, INC.		

<b>Registrant</b>	Suite 200 3810 Bedford Ave. NASHVILLE, TN 37215 UNITED STATES
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**Goods/Services Subject to Cancellation**

Class 042. First Use: 2008/07/10 First Use In Commerce: 2008/10/00  
 All goods and services in the class are cancelled, namely: Design, development and maintenance of websites and web-based applications for others, design and development of multimedia products for use in corporate events, meetings and conferences, lighting design, graphics design, industrial design, visual design services in the nature of designing visual elements for online, broadcast, print, outdoor and other communication media, and set design services for corporate events

**Grounds for Cancellation**

Priority and likelihood of confusion		Trademark Act section 2(d)	
Dilution		Trademark Act section 43(c)	
<b>Registration No</b>	3755678	<b>Registration date</b>	03/02/2010
<b>Registrant</b>	OVATION, INC. Suite 200 3810 Bedford Ave. Nashville, TN 37215 UNITED STATES		

**Goods/Services Subject to Cancellation**

Class 038. First Use: 2008/07/10 First Use In Commerce: 2008/10/00  
 All goods and services in the class are cancelled, namely: Webcasting of live events and audio, data, graphics, video and multimedia data in connection therewith, video conferencing services, electronic transmission of music, audio, data, graphics and video, satellite broadcasting of live television special events

**Grounds for Cancellation**

Priority and likelihood of confusion		Trademark Act section 2(d)	
Dilution		Trademark Act section 43(c)	
<b>Registration No</b>	3670163	<b>Registration date</b>	08/18/2009

<b>Registrant</b>	OVATION, INC. 601 GRASSMERE PARK SUITE 22 NASHVILLE, TN 37211 UNITED STATES
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**Goods/Services Subject to Cancellation**

Class 035. First Use: 2008/10/09 First Use In Commerce: 2008/10/09 All goods and services in the class are cancelled, namely: Business meeting planning, arranging and conducting business conferences and providing facilities for business meetings, providing on-line registrations services for business meetings and for live corporate business events
Class 038. First Use: 2008/10/09 First Use In Commerce: 2008/10/09 All goods and services in the class are cancelled, namely: Webcasting of live events and audio, data, graphics, video and multimedia data in connection therewith, video conferencing services, electronic transmission of music, audio, data, graphics and video, satellite broadcasting of live television special events
Class 041. First Use: 2008/10/09 First Use In Commerce: 2008/10/09 All goods and services in the class are cancelled, namely: Arranging and conducting educational conferences, special event planning consultation services
Class 042. First Use: 2008/10/09 First Use In Commerce: 2008/10/09 All goods and services in the class are cancelled, namely: Design, development and maintenance of websites and web-based applications for others, design and development of multimedia products for use in corporate events, meetings and conferences, lighting design, graphics design, industrial design, visual design services in the nature of designing visual elements for online, broadcast, print, outdoor and other communication media, and set design services for corporate events

**Grounds for Cancellation**

Priority and likelihood of confusion	Trademark Act section 2(d)
Dilution	Trademark Act section 43(c)

**Marks Cited by Petitioner as Basis for Cancellation**

<b>U.S. Application No.</b>	77943009	<b>Application Date</b>	02/23/2010
<b>Registration Date</b>	NONE	<b>Foreign Priority Date</b>	NONE

<b>Word Mark</b>	OVATION
<b>Design Mark</b>	77943009#TMSN.jpeg
<b>Description of Mark</b>	The mark consists of the term OVATION in stylized font with circles within circles design on top of the word.
<b>Goods/Services</b>	Class 038. First use: Cable television broadcasting services Class 041. First use: Development and production of television programs to be broadcast over television, iptv, Internet, cable and satellite; production of motion picture films to be broadcast over television, cable and satellite; cable television programming; providing a website featuring programs and information relating to the arts, artists, entertainers, dance, music and prerecorded performances

<b>U.S. Application No.</b>	77894130	<b>Application Date</b>	12/15/2009
<b>Registration Date</b>	NONE	<b>Foreign Priority Date</b>	NONE
<b>Word Mark</b>	OVATION TV		
<b>Design Mark</b>	77894130#TMSN.jpeg		
<b>Description of Mark</b>	The mark consists of The words "OVATION TV" surrounded by three squares.		
<b>Goods/Services</b>	Class 038. First use: First Use: 2007/03/31 First Use In Commerce: 2007/03/31 Cable television broadcasting services Class 041. First use: First Use: 2007/03/31 First Use In Commerce: 2007/03/31 Development and production of television programs to be broadcast over television, iptv, Internet, cable and satellite; production of motion picture films to be broadcast over television, cable and satellite; cable television programming		

<b>U.S. Application No.</b>	77943004	<b>Application Date</b>	02/23/2010
<b>Registration Date</b>	NONE	<b>Foreign Priority Date</b>	NONE
<b>Word Mark</b>	OVATION		
<b>Design Mark</b>	77943004#TMSN.jpeg		

<b>Description of Mark</b>	The mark consists of the term OVATION in stylized font with circles within circles design to the left of the word.
<b>Goods/Services</b>	Class 038. First use: Cable television broadcasting services Class 041. First use: Development and production of television programs to be broadcast over television, iptv, Internet, cable and satellite; production of motion picture films to be broadcast over television, cable and satellite; cable television programming; providing a website featuring programs and information relating to the arts, artists, entertainers, dance, music and prerecorded performances

<b>U.S. Application/Registration No.</b>	NONE	<b>Application Date</b>	NONE
<b>Registration Date</b>	NONE		
<b>Word Mark</b>	OVATION		
<b>Goods/Services</b>	Cable television broadcasting services Development and production of television programs to be broadcast over television, iptv, Internet, cable and satellite; production of motion picture films to be broadcast over television, cable and satellite; cable television programming; providing a website featuring programs and information relating to the arts, artists, entertainers, dance, music and prerecorded performances		

<b>U.S. Application/Registration No.</b>	NONE	<b>Application Date</b>	NONE
<b>Registration Date</b>	NONE		
<b>Word Mark</b>	OVATION		
<b>Goods/Services</b>	Class 038, . Goods and Services: Cable television broadcasting services Class 041, . Goods and Services: Development and production of television programs to be broadcast over television, iptv, Internet, cable and satellite; production of motion picture films to be broadcast over television, cable and satellite; cable television programming; providing a website featuring programs and information relating to the arts, artists, entertainers, dance, music and prerecorded performances		

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<b>Attachments</b>	77943004#TMSN.jpeg ( 1 page )( bytes ) OVATION 3670163.pdf ( 7 pages )(695900 bytes ) OVATION 3755678.pdf ( 7 pages )(685594 bytes ) OVATION 3755679.pdf ( 7 pages )(685104 bytes )
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**Certificate of Service**

The undersigned hereby certifies that a copy of this paper has been served upon all parties, at their address record by Facsimile or email (by agreement only) on this date.

<b>Signature</b>	/ETA/
<b>Name</b>	Elise Tenen-Aoki
<b>Date</b>	04/19/2011

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